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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/894,599	06/27/2001	Keith A. Clifton	P-A916	5109

7590 12/02/2004

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EXAMINER

TIEU, BENNY QUOC

ART UNIT	PAPER NUMBER
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2642

DATE MAILED: 12/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/894,599

**Applicant(s)**

CLIFTON ET AL.

**Examiner**

Benny Q. Tieu

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 103***

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).
3. Claims 1-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ogasawara (U.S. Patent Application Publication No. 2001/0018671) in view of Burg et al. (U.S. Patent No. 6,456,699).

Regarding claims 1-22, Ogasawara teaches a workplace shopping system and merchandise picking system, and shopping method and picking method thereof wherein a client accesses to a web server is allowed to create a shopping list after log-in into the system. The Web Server completes the shopping list by adding the alternate merchandise information,

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merchandise selection comments, delivery location, delivery time and date, enterprise name of the client management database, and information about the payment method (see Fig. 6). Burg et al. teach a web-based generation of telephony-based interactive voice response applications wherein a user calling the IVR Help system that is graphically represented in Fig. 8 initially dials a telephone number and hears an introductory welcome message and hears a series of prompts for different responses (column 10, lines 25-40). However, both Ogasawara and Burg et al. do not explicitly teach the method of providing a caller with the option of not to talk with an automatic attendant, but directly talk with a customer service representative. However, this feature is well known in the art. For example, when a customer makes an 1-800 call, he or she will be dealing with a menu provided by an IVR (Interactive Voice Response) system (automatic call attendant). On the menu, the customer is provided with an option "... or press or enter zero for a customer representative". When the customer press zero on the phone, the customer's call is transfer to an available customer representative. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the use of an option as well known in the art to modify the method and/or system disclosed by Ogasawara and Burg et al. in order to provide service to a customer more effective and satisfaction.

#### ***Response to Arguments***

4. Applicant's arguments with respect to claims 1-22 have been considered but are moot in view of the new ground(s) of rejection.

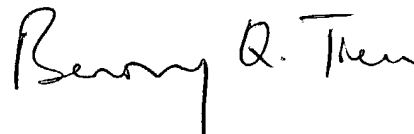
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***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benny Q. Tieu whose telephone number is (703) 305-2360. The examiner can normally be reached on Monday-Friday: 6:30AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad Matar can be reached on (703) 305-4731. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**BENNY TIEU  
PRIMARY EXAMINER**

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November 23, 2004